

IRVING D'FORREST PARKS

JANUARY 7, 1927.—Committed to the Committee of the Whole House and ordered to be printed

Mr. WOLVERTON, from the Committee on War Claims, submitted the following

REPORT

[To accompany H. R. 12783]

The Committee on War Claims, to whom was referred the bill (H. R. 12783) to provide the payment of the amount of an adjusted-service certificate to Irving D'Forrest Parks, beneficiary designated by Corpl. Steve McNeil Parks, deceased, having considered the same, report thereon with a recommendation that it do pass without amendment.

STATEMENT OF FACTS

The facts in this case are very simple and are fully set forth in a letter from the Assistant Director of the United States Veterans' Bureau addressed to Hon. B. G. Lowrey under date of June 11, 1926, which is appended hereto and made a part of this report.

Corpl. Steve McNeil Parks made application for his adjusted compensation certificate in March, 1925. This application was received by the War Department on March 21, 1925. The records of the War Department show that Irving D'Forrest Parks was named as beneficiary and that the application was returned for certain corrections the nature of which were not noted.

The application was lost in the mails or in the department before mailing; at least it was never received by the veteran.

The veteran was killed by an accident in which an artery was severed in August, 1925, and he died thinking the application had been accepted.

The purpose of this bill is to pay the beneficiary the value of the adjusted-service certificate which the veteran intended he should have and of which he was deprived through no fault of his own or of the veteran, but through circumstances over which neither had control.

UNITED STATES VETERANS' BUREAU,
Washington, June 11, 1926.

Steve M. Parks (deceased), A-2368189

HON. B. G. LOWREY,
House of Representatives, Washington, D. C.

MY DEAR MR. LOWREY: In compliance with your personal request, the bureau is pleased to advise you concerning the records of this office in connection with the application for adjusted compensation executed by the above-named veteran.

Under date of November 14, 1925, the War Department communicated with this bureau as follows:

"1. The records of this office show that an application for adjusted compensation executed by Steve M. Parks, postmarked March 18, 1925, was received in this office March 21, 1925, and assigned No. 2368189. The veteran named as beneficiary, Mr. Irving D'Forest Parks, brother, Sherman, Miss. The application has become lost and this office has been unable to locate it.

"2. There is inclosed credit certificate based on the lost application of the veteran.

"3. This office has been informed that the veteran died in August, 1925."

Attached to this letter from the War Department were two communications—one from Lillie B. Carr, postmaster, Sumner, Miss., and one from George S. Bensley, postmaster, Sherman, Miss. These affidavits are quoted as follows:

"Personally appeared before me, the undersigned authority of law, in and for said county and State, Mrs. Lillie B. Carr, postmaster of the said town of Sumner, who, first being duly sworn, makes oath:

"That she was well acquainted with the said Mr. S. M. Parks, because he was a member of her household as a boarder, especially during the month of March, 1925; and he long had been a patron of the Sumner post office.

"That with reference to the said application for adjusted compensation, she is advised that Mr. Parks filed his application with the War Department, and after waiting some time he wrote to the department wanting to know the cause of delay, and in reply was advised that the original application he filed had been returned to him in March (1925) for correction.

"That the said original application so returned in March was not received at this office.

"LILLIE B. CARR, *Postmaster.*"

"In the matter of original claim for adjusted compensation of Steve M. Parks which is claimed to have been filed with the War Department and returned by them for correction, wish to state that I, G. S. Bensley, postmaster of Sherman, Miss., have no recollection of any such mail having been returned to this office for the said Steve M. Parks and that to the best of my knowledge and belief it was never received here, as I would have forwarded it to him at Sumner, Miss., which act if done, I feel sure I would have remembered.

"GEO. S. BENSLEY, *Postmaster.*"

However, the Comptroller General of the United States, in a decision rendered January 9, 1925, in the case of Samuel Horn, A-12195, that where an application for adjusted compensation was returned for correction, defect, or omission, has not been received back, that such application can not be presumed to be valid, and the issuance of an adjusted service certificate and payments thereunder are not authorized.

There is attached copy of the comptroller's decision in this case.

Again under date of April 30, 1926, the War Department directed another communication to the bureau concerning this veteran's application, which is quoted:

"1. The records of this office show that an application for adjusted compensation executed by Steve M. Parks, postmarked March 18, 1925, was received in this office March 21, 1925, and assigned number 2368189. The veteran named as beneficiary Mr. Irving D'Forrest Parks, brother, Sherman, Miss. It appears that the application was returned to the veteran for certain correction, the nature of which is not indicated, neither is the date of its return of record. There is no record of it having been again received in this office.

"2. There has been submitted an affidavit from Lillie B. Carr, postmaster of Sumner, Miss., which sets out as follows:

"That she was well acquainted with the said Mr. S. M. Parks, because he was a member of her household as a boarder, especially during the month of March, 1925; and he long had been a patron of the Sumner post office.

"That with reference to the said application for adjusted compensation, she is advised that Mr. Parks filed his application with the War Department, and after waiting some time he wrote to the department wanting to know the cause of delay, and in reply was advised that the original application he filed had been returned to him in March (1925) for correction.

"That the said original application so returned in March was not received at this office."

An affidavit is also submitted from George S. Bensley, postmaster at Sherman, Miss., to the effect that—

"I have no recollection of any such mail having been returned to this office for the said Steve M. Parks, and that to the best of my knowledge and belief it was never received here, as I would have forwarded it to him at Sumner, Miss., which act if done, I feel sure I would have remembered."

3. The application having been lost it was decided that it may be considered a valid application duly filed by the veteran prior to his death and a certificate of credit was accordingly transmitted to the Veterans' Bureau on November 13, 1925."

These are the complete facts of the record of this case, and it is hoped that the same will enable you to understand the present status of the claim.

A copy of this letter is inclosed for your use.

For the director.

CHARLES E. MULHEARN,
Assistant Director.

JANUARY 9, 1926.

The DIRECTOR UNITED STATES VETERANS' BUREAU.

SIR: Consideration has been given your submission dated December 3, 1925, requesting decision whether an adjusted-service certificate may lawfully issue and payments be made thereunder based upon an alleged application of Samuel Horn, a veteran now deceased, in view of the facts appearing.

The facts submitted disclose that when the alleged application was received in the War Department on July 13, 1924, it was in due routine given a number, and the facts of its receipt, date, etc., were entered on a card; that upon examination of the substance of the alleged application it was determined necessary that it be returned to the veteran for correction, which was done; that the veteran died July 15, 1924, presumably without making or having an opportunity to make the required correction, the element of time and the routine in such matters considered—at least, it is not established that the required correction was ever made; that the alleged application was later sent back to the War Department by one Warren Burkey, an attorney, with information concerning the veteran's death; that the application has become lost and for that reason is not available for transmitting to the Director of the Veterans' Bureau, as required by section 303 of the World War adjusted compensation act. Said section is as follows:

"SEC. 303. (a) As soon as practicable after the receipt of a valid application, the Secretary of War or the Secretary of the Navy, as the case may be, shall transmit to the Director of the United States Veterans' Bureau (hereinafter in this act referred to as the 'director') the application and a certificate setting forth (1) that the applicant is a veteran, (2) his name and address, (3) the date and place of his birth, and (4) the amount of his adjusted service credit together with the facts of record in his department upon which such above conclusions are based.

"(b) Upon receipt of such certificate the director shall proceed to extend to the veteran the benefits provided for in Title IV or V."

The certification card sent from the War Department to the Director of the Veterans' Bureau is to the effect that the records of said department disclose there is adjusted-service credit due in the sum of \$625; and in view of the fact that conflicts as to the rights of parties under the provisions of the World War adjusted compensation act are not only possible but likely in cases of this character, the provisions of the law are for close observance to the end that all interests, including those of the United States, may be properly safeguarded.

It is to be noted that by the express provision of the statute, above quoted, there must be a valid application filed with the Secretary of War or the Secretary of the Navy, as the case may be, which valid application must be transmitted to the Director of the Veterans' Bureau with the facts of record in the department essential to enable the director to extend to the applicant, if entitled, the benefits of the enactment.

That a veteran has during his lifetime filed a valid application is a specific requirement of the law that must be satisfied before the Director of the Veterans' Bureau is authorized, in a case of this character, to extend the benefits of the enactment, and in such connection, the administrative responsibility being his, the facts are for ascertainment and primary determination by him. But a valid application, so filed, being essential also to support any payment made in connection therewith from funds appropriated to carry out the provisions of the enactment, the question for determination here is whether the alleged application has been sufficiently established to be a valid application of the veteran, so filed, as to furnish necessary support for payments from such appropriated funds, if made.

It is not disclosed, and apparently is not known, for what correction the alleged application was returned to the veteran. It has become lost and is not now available for examination. It is of record, however, that the application was returned to the veteran by the War Department "for correction." It must be assumed this return was for no trivial matter but was necessary. There having been determined such necessity for return and correction, the defect or omission probably went to some essential matter involving the validity of the document as an application. For one thing, nothing appears that may be accepted as establishing that the alleged application was even executed by the veteran.

Clearly, in such a state of facts there can be no presumption that the defect necessitating the return went merely to some nonessential and that the "application" was, without the required correction, a valid one under the law.

Upon the facts presented, issuance of an adjusted service certificate and payments thereunder are not authorized.

Respectfully,

J. R. McCARL,
Comptroller General of the United States.

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